IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10351 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CENTRAL WORKSHOP S.T.MAZDOOR SANGH

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

Appearance:

MR PRABHAKAR UPADYAY for the Petitioner.

MR HARDIK C RAWAL for Respondent No. 1

MR JIGAR P RAVAL for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 01/04/2003

ORAL JUDGEMENT

By filing this petition, the petitioner-Union has prayed for setting aside the order passed by the Industrial Tribunal, Ahmedabad, dated 22.7.2002, in Reference (TU) No.1 of 2001. The petitioner-Union has

raised the dispute, which is numbered as Reference (TU) No.1 of 2001. The said application is preferred under Section 14A of the Trade Unions Act, 1926. In the said application, it is prayed by the petitioner-Union that the list of office bearers prepared by the petitioner-Union on 7.4.2001 by Annexure `A' is legal and proper and the same is prepared as per the procedure for holding election and that it may be declared that the office bearers be treated as lawfully elected on the basis of preparation of such list. It is also prayed that the list prepared by respondent-Gujarat S.T. Mazdoor Maha Sangh is illegal and contrary to the election procedure and Rules and that the respondent No.2 Maha Sangh has no authority to prepare any such list, by which list of some office bearers is published by respondent No.2-Maha Sangh.

The Tribunal, by the impugned order, came to the conclusion that it is an admitted fact that the dispute between the petitioner and the respondent No.2 is in connection with election, on the basis of which some office bearers are elected for the period between 1.4.2001 and 31.3.2002. The Tribunal also came to the conclusion that the tenure of such office bearers is already over by 31st March, 2002. Under the circumstances, it is found that the prayer of the present petitioner before the Tribunal has become infructuous. The Tribunal accordingly disposed of the pending Reference (TU) No.1 of 2001 on the ground that the same has become infructuous as the time limit for which the office bearers were elected was already over by that time. The operative portion of the order of the Tribunal is at page 105 of the compilation. Advocates for both the sides before the Tribunal had also agreed to the effect that it is not in dispute that the prayers of the petitioner has become infructuous.

Mr.Upadhyay, however, submitted that the respondent No.2 has no authority to interfere with the election of office bearers at the local stage, for which he has also relied upon the constitution prepared by the Maha Sangh, i.e. respondent No.2. He further submitted that the respondent No.2 has no right to prepare any list of office bearers for the Union, which is functioning at a local level and it is the Union, functioning at the local level alone, which has the right to prepare the list of elected office bearers of its Union. However, looking to the original prayer in the main application, which is at page 49, it is clear that the dispute is in connection with the election of the office bearers for the intervening period between 1.4.2001 and 31.3.2002.

Since that period is now over, the Tribunal is perfectly justified in not deciding the other questions. It is required to be noted that both the prayers are in connection with the election dispute and on the basis of such election, the names of some office bearers were also submitted by respondent No.2 to the employer. Since the tenure of these office bearers is over, the Tribunal is right in not deciding the academic questions in the pending dispute. In my view, therefore, no interference of this Court is called for in a petition filed under Article 227 of the Constitution of India against the order of the Tribunal. It is, however, clarified that as and when fresh list of office bearers is prepared in connection with the subsequent period and in case the petitioner is required to raise such dispute before the Tribunal, the Tribunal shall dispose of such application on its own merits and in case a question arises whether the respondent No.2 has right to send the list of any office bearer for the election of the Union representative at the local level, that question shall be adjudicated and decided by the Tribunal in accordance with law. Suffice it to say that so far as the present petition is concerned, since the tenure of the elected representative / officer bearer is over, at this stage, the order of the Tribunal is not required to be interfered with by this Court, as the issue has become academic and practically infructuous. As stated earlier in future, if any such issue arises, the Tribunal will have to decide the same considering the facts and circumstances of the case and considering the constitution of the respondent No.2.

With these observations, the petition is dismissed. Rule is discharged, with no order as to costs.

1st April, 2003 (P.B. Majmudar, J.)

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(apj)